

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

DONNA J. RICHARDSON  
TX-1322272-R

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DOCKETED COMPLAINT NO. 06-044

**AGREED FINAL ORDER**

On this the 20<sup>th</sup> day of October, 2006, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Donna J. Richardson, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

**FINDINGS OF FACT**

1. Respondent Donna J. Richardson, a state certified residential real estate appraiser, holds certification number TX-1322272-R, and has been certified since January 31<sup>st</sup>, 1992.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq. (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about February 1<sup>st</sup>, 2002, Respondent appraised the subject property located at 248 Byrd Lane, Pottsboro, Grayson County, Texas ("the property") for the client, American Bank of Texas.
4. On December 12<sup>th</sup>, 2005, TALCB received a complaint against Respondent from Elena Carraway, Vice President of The Independent Bank, in accordance with TEX. OCC. CODE § 1103.451. The complaint alleged that Respondent's appraisal report on the subject property was inaccurate, and contained misleading factual data about the subject property, neighborhood, site improvements and comparable sales.
5. On or about December 20<sup>th</sup>, 2005 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. § 2001 et. seq., notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response was received.
6. The Enforcement Division concluded that the Respondent's appraisal report violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:
  - a) USPAP Standard 2-2(b) – Respondent has failed to prominently state the report option she used in her appraisal report.

- b) USPAP Standards 1-2(b) & 2-2(b)(ii) – Respondent did not identify the intended user of her opinions and conclusions.
- c) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to adequately identify and report the site description. The report does not accurately inform the reader that the subject is in an unrecorded subdivision and incorrectly refers to the subject as "Lot 5" when it is actually only a portion of Lot No. 5 of the partition of the plat of Henderson Estates.
- d) USPAP Standards 1-2(e)(iv) & 2-2(b)(ix) – Respondent failed to consider and report and provide commentary or analysis on the deed restrictions and 15 foot public-access easement running along the west line of the property which reduces the usable lot size and whether land owners are in compliance with the applicable deed restrictions.
- e) USPAP Standards 1-3(b) & 2-2(b)(x) – Respondent failed to provide a summary of her supporting rationale for her determination of the subject's highest and best use as required.
- f) USPAP Standards 1-4(b)(i) & 2-2(b)(ix) – Respondent did not use an appropriate method or technique to develop an opinion of the subject's site value because she provided no land sales in her work file and no notes as to how she determined the property's site value.
- g) USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) – Respondent did not collect, verify, analyze and reconcile the cost new of improvements. Respondent's report states she relied upon Marshall & Swift Valuation Service for her cost data and that she used \$90 per square foot for the improvements and appliances package, yet this figure does not comport with Marshall & Swift Valuation Service data, which actually indicates that \$74.65 per square foot (after adjustments for location, shape and the appliance package) should have been used by Respondent. Furthermore, Respondent included an additional \$25,000.00 for site improvements without any explanation or commentary in her report even though this had already been accounted for elsewhere in the report.
- h) USPAP Standards 1-1(a) & 1-4(b) – Respondent failed to correctly employ recognized methods and techniques in her cost approach since she used erroneous data and added site improvements in twice.
- i) USPAP Standards 1-4(a) & 2-2(b)(ix) – Respondent failed to adequately collect, verify, analyze and reconcile comparable sales data. Respondent failed to correctly address the guest apartment either separately or as a super-adequacy. Additionally, Respondent's sales comparables 1 and 2 were not comparable to the subject property and were dissimilar because they were waterfront properties unlike the subject property. While Respondent attempted to adjust for this waterfront characteristic, the adjustments were not appropriate and were

significantly less than what the data indicated was an appropriate adjustment. Furthermore, Respondent failed to make any quality adjustments for sales comparables 1 and 3. Other, more appropriate comparable sales in the subject property's market area were readily available and should have been used by Respondent, but were not.

- j) USPAP Standards 1-1(a) & 1-4(a) – Respondent did not correctly employ recognized methods and techniques in her sales comparison approach. Adjustments for land differences were not supported or justified and there were no adjustments made for quality when this should have been researched, quantified, analyzed and explained.
  - k) USPAP Standards 1-5(c) & 2-2(b)(ix) – Respondent attempted to reconcile the data, but the reconciliation failed because the adjustments used were not market driven and were not properly analyzed.
  - l) USPAP Standard 1-1(a) – For the reasons outlined above, Respondent did not correctly employ recognized methods and techniques to produce a credible appraisal report.
  - m) USPAP Standard 1-1(b) – Respondent did not comply with USPAP because she committed substantial errors of omission or commission with regard to data selection and analysis in her appraisal report.
  - n) USPAP Standard 1-1(c) – Respondent failed to comply with USPAP because she rendered appraisal services that were careless or negligent. Respondent's report had careless errors and erroneous information.
  - o) USPAP Standard 2-1(a) – Respondent's appraisal report is misleading to the user because Respondent did not use appropriate data and failed to provide adequate analysis of available data.
  - p) USPAP Standard 2-1(b) – Users of Respondent's report could not understand her conclusions because she lacked support for an analysis of the data and adjustments.
7. The Enforcement Division concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by failing to conform to USPAP in effect at the time of the appraisal report.
8. The Enforcement Division concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making material misrepresentations and omissions of material facts in the appraisal report of the property. These material misrepresentations and omissions of material fact include: using inappropriate comparable sales when more appropriate comparable sales that should have been used were readily available in the same area, using

inappropriate cost figures in the cost approach, failing to correctly report that the property is located in an unrecorded subdivision and correctly report the lot description of the property.

## CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE §§ 1103.451-1103.5535 (Vernon 2005).
2. Respondent violated the following USPAP provisions as prohibited by 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP Standards Rules: 2-2(b); 1-2(b) & 2-2(b)(ii); 1-2(e)(i) & 2-2(b)(iii); 1-2(e)(iv) & 2-2(b)(ix); 1-3(b) & 2-2(b)(x); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-5(c) & 2-2(b)(ix); 1-1(a), 1-1(b), 1-1(c), 2-1(a), and 2-1(b).
3. Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making material misrepresentations and omissions of material facts in her appraisal report.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that Respondent shall:

1. Pay to the Board an Administrative Penalty of \$1,500.00;
2. Attend and complete a minimum, 15 classroom-hour course in USPAP;
3. Attend and complete a minimum, 15 classroom-hour course in any one of the following courses: the sales comparison approach, market data analysis, residential case studies, or appraising the tough ones;
4. Attend and complete a minimum, 15 classroom-hour course in the cost approach;
5. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be completed within **TWENTY DAYS** of the date of this Agreed Final Order. Failure to pay the administrative penalty within the time allotted shall result in **IMMEDIATE SUSPENSION** of Respondent's license pursuant to notice to Respondent from the Board indicating that Respondent has not paid the administrative penalty.

**ALL CLASSES** required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the

twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. All classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for licensure.

Failure to complete the education required by this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's license pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the educational requirements of this Agreed Final Order.

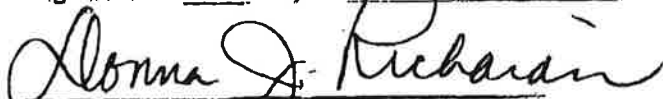
**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.** Respondent shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent pays the Administrative Penalty or takes and passes the required educational courses and provides adequate documentation of same to the Board.

Respondent, by signing this Agreed Final Order, neither admits nor denies that the findings of fact and conclusions of law herein set forth are correct; however, Respondent consents to the entry of this Agreed Order to avoid the expense of litigation and to reach an expeditious resolution of this matter. Respondent also agrees to satisfactorily comply with the mandates of this Agreed Final Order in a timely manner.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published in the Board's newsletter and/or on the Board's web site.

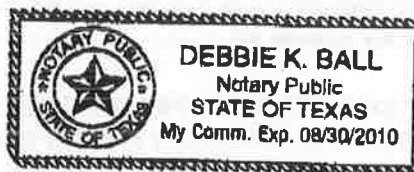
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 16 day of OCT, 2006.

  
DONNA J. RICHARDSON

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 16<sup>th</sup> day of October, 2006, by DONNA J. RICHARDSON, to certify which, witness my hand and official seal.

Debbie K. Ball  
Notary Public Signature



Debbie K. Ball  
Notary Public's Printed Name

Signed by the Commissioner this 19<sup>th</sup> day of October, 2006.

Wayne Thorburn  
Wayne Thorburn, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 20<sup>th</sup> day of October, 2006.

Shirley Ward  
Shirley Ward, Chairperson  
Texas Appraiser Licensing and Certification Board